S.B. Civil Writ Petition NO.1864/2004

Chuki Devi & Ors. Vs. Mangi Devi & Anr.

Date of Order : 03-12-2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. J.K. Bhaiya, for the petitioners.
Mr. J.L. Purohit, for the respondents.

Heard learned counsel for the parties.

The petitioner is aggrieved against the order of the trial Court dated 2.4.2004 by which the trial Court allowed the application of the petitioner filed under Order 6 Rule 17 CPC and permitted petitioner to amend the plaint by adding Para 1A in the plaint.

According to learned counsel for the petitioner, the plaintiff respondent sought withdrawal of his admission made in the plaint and want to change the stand taken in the suit. According to learned counsel for the petitioner, the respondent-plaintiff in his plaint categorically stated that he has filed the suit on the basis of the alleged written document dated 24.7.1999. Now the respondent-plaintiff wants to withdraw that admission and wants to submit that the said document was written Tahrir was given in security for repayment of the amount advanced.

I perused the facts of the case. It is clear from the plaint itself that in para 1 of the plaint, the plaintiff submitted that Rs.84,000/- was given by the plaintiff to deceased Indra Chand and deceased Indra Chand executed a Tahrir on the same day admitting that the said amount will be paid with interest @ Rs.1.50/- per hundred per month.

The trial Court framed the issued No.2 to the effect whether the deceased Indra Chand took Rs.84,000/- and executed the Tahrir (dated 24.7.1999). Therefore, it is clear that the cause of action was, advancing of money on 24.7.1999 and the alleged deed Tahrir is only evidence in support to the transactions and containing terms of interest. The cause of action in the case was lending of money and not the mere Tahrir itself.

In view of the above, I do not find that the plaintiff by amendment is seeking withdrawal of his any admission or even want to change any stand.

In view of the above, I do not find any merit in this petition and the same is hereby dismissed.

[PRAKASH TATIA],J.

Praveen